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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/029,784

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Yakov Kamen

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EXAMINER

PENG, FRED H

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/029,784

Applicant(s)

KAMEN, YAKOV

Examiner.

Fred Peng

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-11,13,15-17 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-11,13,15-17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-2, 4-5, 7-11, 13, 15-17 and 19-25 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-5, 7-11, 13, 15-17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates et al (US 6,721,953) in view of Ismail et al (US 6,614,987) and Maissel et al (US 2004/0049787).

Regarding Claims 1, 7 and 13, Bates discloses a system which implements a method, a computer readable medium and corresponding system comprising:

a first unit to add to a first set of broadcasted programs a second set of broadcasted programs, the second set of broadcasted programs including broadcasted programs viewed by a viewer for a period of time at least equal to a first threshold (a first computational "unit" adds the programs based upon a program viewed for a period of time; there exists a 'first set' since block 142 determines whether 'one or more records already exist in the favorite program table matching the current program information for the program currently being viewed' col. 7, line 60 to col. 8, line 5);

a second unit coupled with the first unit to remove from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold (a second computational "unit" removes the programs entries with lowest counts are removed based on 'other criteria (e.g., accumulated viewing time)' so as to maintain a fixed number of counts col. 8, lines 19-33).

Bates does not specifically disclose the second threshold is less than the first threshold.

In an analogous art, Ismail discloses the second threshold is less than the first threshold (Col 10 lines 63-67, Col 11 lines 1-2, 14-20; Col 12 lines 7-8, 19-38; the programs already stored in the preference database is aging and is multiplying with a degradation co-efficient, as a result, the viewing time statistic is reduced and the corresponding watched degradation threshold to delete the program, the second threshold, is also reduced).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Bates' method to include the second threshold is less than the first threshold, as taught by Ismail to provide extra margin to produce more consistent and stable user preference database.

Bates and Ismail both disclose the threshold can be set or adjusted based on the user preference (Bates Col 8 lines 1-5; Ismail Col 11 lines 18-20). However, Bates and Ismail do not specifically disclose updating threshold based on receiving an indication of a level of user satisfaction with the displayed customized broadcast programs, the first set of broadcast programs.

In an analogous art, Maissel discloses receiving an indication of a level of user satisfaction with the displayed customized broadcast programs (Para 46; reaction of customized programs reflecting satisfaction of the program list); and further discloses the user having a option to update the preference parameters that include the viewing time threshold (Para 124; Para 41; the first threshold, the required viewing period of a program to be added to the customized

program list, is part of the user preference profile and the user is able to modify the preference profile and this including first threshold modification and been updated automatically).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Bates and Ismail to include updating at least one of the first threshold and the second threshold automatically based on user satisfaction with the current customized broadcast programs, as taught by Maissel so a more accurate user preference profile can be achieved through a user intervention.

Regarding Claims 2 and 8, Bates discloses wherein the first unit is further to add to the first set of broadcasted programs a fourth set of broadcasted programs manually selected by the viewer (the programs are 'manually selected by the viewer' by depressing an execute or the like button on a remote controller (col. 11, line 55 to col. 12, line 11); by watching a channel past a threshold, the user is effectively "selecting" a program to be added as a "favorite" col. 7, line 60 to col. 8, line 5).

Regarding Claims 4, 10, and 16, Bates, Ismail and Maissel are silent about the level of user satisfaction comprises determining that the viewer returned to a complete schedule of programs more than a predetermined number of times.

Official Notice is taken that it is well known in the art that more often the complete schedule of programs is accessed by the user the less interest the current custom list is to the user.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Bates, Ismail and Maissel to include the level of user satisfaction comprises determining that the viewer returned to a complete schedule of programs more than a predetermined number of times as a simple criteria to determine user preference .

Regarding Claims 5, 11, 17, 21, 24 and 25, In view of Bates and Ismail, Maissel further discloses the first threshold and the second threshold are calculated as different percentage of a time that a channel was viewed (Para 123 lines 1-7).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Bates, Ismail to include threshold are calculated as different percentage of a time that a channel was viewed as taught by Maissel as an alternative measuring of viewing time for shorter programs.

Regarding Claims 9 and 15, In view of Maissel, Bates discloses the first unit is further to update the first threshold and the second threshold upon the viewer indicating dissatisfaction (reaction of customized program list taught by Maissel including dissatisfaction) such that the new values will change the number of broadcast programs in the first set to correspond to a preferred range for the number of broadcast programs to display (Increasing or decreasing the length of time a user has to view a program before it is automatically determined to be a favorite impacts the first and second threshold; by changing the threshold, an updated or new criteria can change the criteria by which a program is added upon viewer dissatisfaction. Furthermore, altering the threshold effectively determines which programs shall be removed, should there be a 'fixed maximum size' for the program table col. 8, lines 1-5).

Regarding Claims 19, 20, 22 and 23, Bates further discloses the updating comprising determining that the number of broadcast programs in the first set exceeds a program number threshold (Col 8 lines 1-5; deleting a lowest count program when a fixed maximum is exceeded).

Bates is silent about adjusting threshold to regulate the number of the first program set.

Official Notice is taken that it is well known in the art to adjust the threshold to increase or decrease the qualified numbers.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Bates, Ismail and Maissel to include adjusting threshold

to regulate the number of the first program set so a reasonable number of programs can be managed by the user.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng  
Patent Examiner

Vivek Srivastava  
Supervisory Patent Examiner

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', with a stylized flourish at the end.

VIVEK SRIVASTAVA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600